

FILED  
 UNITED STATES DISTRICT COURT  
 DISTRICT OF MASSACHUSETTS

2004 JUN -3 P 3:17

\_\_\_\_\_  
 BECTON, DICKINSON and COMPANY, )

Plaintiff, )

v. )

THERASENSE, Inc., )

Defendant. )  
 \_\_\_\_\_

U.S. DISTRICT COURT  
 DISTRICT OF MASS.

Civil Action No. 04-10574 (JLT)

**ASSENTED-TO MOTION  
 TO PLACE UNDER SEAL THERASENSE'S BRIEF IN SUPPORT OF ITS  
 MOTION TO DISMISS AND ACCOMPANYING SILVERMAN DECLARATION**

Pursuant to L.R. 7.2(c), plaintiff Becton, Dickinson and Company ("BD") respectfully requests that the Court immediately place under seal (1) Defendant TheraSense's Brief in Support of its Motion to Dismiss, Stay or Transfer Action Pursuant to Federal Rule of Civil Procedure 12(b)(1), 28 U.S.C. § 2201(a) and 28 U.S.C. § 1404(a), filed on June 1, 2004 ("Memorandum"); and (2) the Declaration of Carl Silverman, filed on June 1, 2004 ("Declaration"). Attached for filing as Exhibit A is a redacted, public version of the Memorandum. BD further requests that both documents remain under seal until and unless the Court, at the time of hearing or thereafter, determines that the documents should no longer be under seal. In support of this Motion, BD states as follows:

1. The Memorandum and Declaration contain and refer to communications between the parties involving specific details about potential licensing arrangements which BD believes should remain confidential; and
2. Defendant Therasense, Inc. ("TheraSense") has assented to this Motion.

Respectfully submitted,

BECTON, DICKINSON AND COMPANY

By its attorneys



William F. Lee (BBO# 291960)  
Wayne M. Kennard (BBO# 629052)  
Lisa J. Pirozzolo (BBO# 561922)  
Saklaine Hedaraly (BBO# 651671)  
Timothy Shannon (BBO# 655325)  
Wilmer Cutler Pickering Hale and Dorr LLP  
60 State Street  
Boston, MA 02109  
(617) 526-6000 Tel  
(617) 526-5000 Fax

Date: June 3, 2004

Respectfully submitted,

THERASENSE, INC.

By its attorneys



Ted Dane (admitted *pro hac vice*)  
Munger, Tolles & Olson LLP  
355 South Grand Avenue  
35th Floor  
Los Angeles, CA 90071-1560  
(213) 683-9100 Tel  
(213) 687-3702 Fax

Date: June 3, 2004

**CERTIFICATE OF SERVICE**

I, Timothy R. Shannon, hereby certify that on June 3, 2004, I caused a copy of this document to be served on counsel of record listed below.

Daniel L. Goldberg, Esq. (by hand)  
BINGHAM MCCUTCHEN LLP  
150 Federal Street  
Boston, MA 02110-1726

Ted Dane, Esq. (by overnight mail)  
Munger, Tolles & Olson LLP  
355 South Grand Avenue  
Los Angeles, CA 90071



Timothy R. Shannon